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6 **BEFORE THE**
7 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. VN-2009-1539

11 **CRISTITA LARENA PATERNO**
12 **925 South Wolfe Road, Apt. 17**
13 **Sunnyvale, CA 94086**

DEFAULT DECISION AND ORDER

14 **607 Timberpine Ave., Apt. 2**
15 **Sunnyvale, CA 94086-8364**

[Gov. Code, §11520]

16 Respondent.

17 **FINDINGS OF FACT**

18 1. On or about November 23, 2010, Complainant Teresa Bello-Jones, J.D., M.S.N.,
19 R.N., in her official capacity as the Executive Officer of the Board of Vocational Nursing and
20 Psychiatric Technicians, filed Accusation No. VN-2009-1539 against Crisita Paterno
21 (Respondent) before the Board of Vocational Nursing and Psychiatric Technicians. (Accusation
attached as Exhibit A.)

22 2. On or about August 1, 2005, the Board of Vocational Nursing and Psychiatric
23 Technicians (Board) issued Vocational Nurse License No. VN 215978 to Respondent. The
24 Vocational Nurse License was in full force and effect at all times relevant to the charges brought
25 in the Accusation. The license will expire on November 30, 2012, unless renewed.

26 3. On or about November 23, 2010, Respondent was served by Certified and First Class
27 Mail copies of the Accusation No. VN-2009-1539, Statement to Respondent, Notice of Defense,
28

1 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
2 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions
3 Code section 136 is required to be reported and maintained with the Board, which was and is:
4 925 South Wolfe Road, Apt. 17
Sunnyvale, CA 94086.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
7 124.

8 5. On or about December 6, 2010, the aforementioned documents were returned by the
9 U.S. Postal Service with the following address on the envelope:

10 607 Timberpine Ave., Apt. 2
11 Sunnyvale, CA 94086-8364

12 6. On or about December 15, Respondent was served by Certified and First Class Mail
13 copies of the Accusation No. VN-2009-1539, Statement to Respondent, Notice of Defense,
14 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
15 and 11507.7) at the address described in paragraph 5, above.

16 7. On or about January 18, 2011, the aforementioned documents were returned by the
17 U.S. Postal Service marked "unclaimed".

18 8. Government Code section 11506 states, in pertinent part:

19 (c) The respondent shall be entitled to a hearing on the merits if the respondent
20 files a notice of defense, and the notice shall be deemed a specific denial of all parts
21 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

22 9. Respondent failed to file a Notice of Defense within 15 days after service upon her of
23 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. VN-
24 2009-1539.

25 10. California Government Code section 11520 states, in pertinent part:

26 (a) If the respondent either fails to file a notice of defense or to appear at the
27 hearing, the agency may take action based upon the respondent's express admissions
28 or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

6. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. VN-2009-1539, finds that the charges and allegations in Accusation No. VN-2009-1539, are separately and severally true and correct by clear and convincing evidence.

7. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$945.00 as of January 24, 2011.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Crisita Paterno has subjected her Vocational Nurse License No. VN 215978 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Vocational Nursing and Psychiatric Technicians is authorized to revoke Respondent's Vocational Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case.:

a. Business and Professions Code sections 2878, subdivision (f) (conviction of a substantially related crime on or about March 2, 2010); 2878 (general unprofessional conduct); and 2878, subdivision (j) (commission of act involving dishonesty).

ORDER

IT IS SO ORDERED that Vocational Nurse License No. VN 215978, issued to Respondent Crisita Paterno, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

1 This Decision shall become effective on April 21, 2011.

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3 It is so ORDERED March 22, 2011

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5 FOR THE BOARD OF VOCATIONAL NURSING
6 AND PSYCHIATRIC TECHNICIANS
7 DEPARTMENT OF CONSUMER AFFAIRS

8 90175736.DOC
9 DOJ Matter ID:SF2010900418

10 Attachment:
11 Exhibit A: Accusation
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Exhibit A

Accusation

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Attorneys for Complainant

FILED

Board of Vocational Nursing
and Psychiatric Technicians

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11 BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
12 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

14 In the Matter of the Accusation Against:

Case No. VN-2009-1539

15 CRISTITA LARENA PATERNO
16 925 South Wolfe Road, Apt. 17
Sunnyvale, California 94086
17 Vocational Nurse No. VN 215978

ACCUSATION

18 Respondent.

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20 Complainant alleges:

21 PARTIES

22 1. Terese Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in
23 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric
24 Technicians.

25 2. On or about August 1, 2005, the Board of Vocational Nursing and Psychiatric
26 Technicians issued Vocational Nurse License Number VN 215978 to Cristita Larena Paterno
27 (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to
28 the charges brought in this Accusation and will expire on November 30, 2010, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 118, subdivision (b), of the Code provides in pertinent part that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1 of the Code, the Board may renew an expired license within four years after the expiration.

STATUTORY/REGULATORY PROVISIONS

5. Section 2875 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board of Vocational Nursing and Psychiatric Technicians ("Board") may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

6. Section 2878 of the Code states:

"The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Business and Professions Code, 2840, et seq.)] for any of the following:

"(a) Unprofessional conduct. . .

. . .

"(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction.

. . .

"(j) The commission of any act involving dishonesty, when that action is related to the duties and functions of the licensee."

7. Section 490 of the Code provides, in pertinent part, that a Board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially

1 related to the qualifications, functions, or duties of the business or profession for which the
2 license was issued.

3 8. Title 16, California Code of Regulations, section 2521 provides in pertinent part:

4 "For purposes of denial, suspension, or revocation of a license pursuant to Division
5 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be
6 considered to be substantially related to the qualifications, functions or duties of a licensed
7 vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed
8 vocational nurse to perform the functions authorized by his license in a manner consistent with
9 the public health, safety, or welfare. . ."

10 COST RECOVERY

11 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
12 administrative law judge to direct a licensee found to have committed a violation or violations of
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
14 enforcement of the case.

15 FIRST CAUSE FOR DISCIPLINE

16 (Conviction of a Crime Substantially Related to Practice)

17 10. Respondent has subjected her license to disciplinary action under Code sections 2878,
18 subdivision (f), and 490 in that on or about March 2, 2010, she was convicted by the court on her
19 plea of nolo contendere of a violation of Penal Code section 368, subdivision (e) (theft by a
20 caretaker from an elder or dependent adult), in Santa Clara County Superior Court, Case
21 No. CC960195, entitled *People v. Cristita Larena Paterno*. The circumstances of the crime are
22 that on or about and between October 1, 2009 and October 26, 2009, Respondent did, as a
23 caretaker of an elder, commit theft, embezzlement, forgery, fraud and identity theft, in the form of
24 labor, goods, services, real and personal property, namely, money credit cards, and checks, of a
25 value exceeding four hundred dollars.

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1 SECOND CAUSE FOR DISCIPLINE

2 (General Unprofessional Conduct)

3 11. Paragraph 10. above, is incorporated by reference as if fully set forth.

4 12. Respondent's conduct as set forth in paragraph 10, above, constitutes general
5 unprofessional conduct, and is cause for disciplinary action pursuant to Code section 2878.

6 THIRD CAUSE FOR DISCIPLINE

7 (Commission of Act Involving Dishonesty)

8 13. Paragraph 10, above, is incorporated by reference as if fully set forth.

9 14. Respondent's conduct as set forth in paragraph 10, above, constitutes the commission
10 of an act involving dishonesty, as is cause for disciplinary action pursuant to Code section 2878,
11 subdivision (j).

12 PRAYER

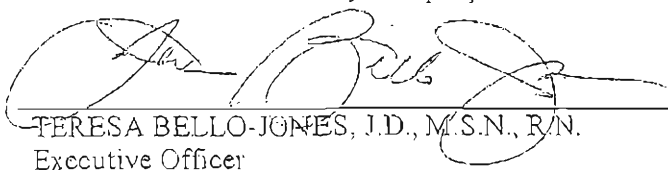
13 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
14 Accusation and that following the hearing, the Board of Vocational Nursing and Psychiatric
15 Technicians issue a decision:

16 1. Revoking or suspending Vocational Nurse License Number VN 215978, issued to
17 Cristita Larena Paterno;

18 2. Ordering Cristita Larena Paterno to pay the Board of Vocational Nursing and
19 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,
20 pursuant to Business and Professions Code section 125.3;

21 3. Taking such other and further action as deemed necessary and proper.

22 DATED November 23, 2010.

23 
TERESA BELLO-JONES, J.D., M.S.N., R.N.

24 Executive Officer

25 Board of Vocational Nursing and Psychiatric Technicians

26 Department of Consumer Affairs

27 State of California

28 Complainant

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